

HOUSE BILL REPORT

HB 1761

As Reported by House Committee On:
Environmental Health, Select
Capital Budget

Title: An act relating to expediting the cleanup of hazardous waste and creating incentives for Puget Sound cleanups.

Brief Description: Accelerating the cleanup of Puget Sound and hazardous waste and waste sites in the state.

Sponsors: Representatives Linville, Hunter, Priest, Hunt, B. Sullivan, Upthegrove, Kessler, Sump, Hankins, Jarrett, Fromhold, Appleton, Rolfes, Darneille, Campbell, Conway, Green, O'Brien, Schual-Berke, Simpson, Ormsby and Chase.

Brief History:

Committee Activity:

Select Committee on Environmental Health: 2/8/07, 2/15/07 [DP];
Capital Budget: 3/1/07, 3/2/07 [DPS].

Brief Summary of Substitute Bill

- Requires the Department of Ecology (DOE) to develop a ten-year financing report that identifies the biennial toxic site remedial needs, and project the cleanup cost, revenue, and any recommended working capital reserve.
- Amends the local toxics control account to require DOE to partner with local communities and liable parties for remedial actions to expedite cleanups throughout the state, through the addition of certain criteria.

HOUSE SELECT COMMITTEE ON ENVIRONMENTAL HEALTH

Majority Report: Do pass. Signed by 9 members: Representatives Campbell, Chair; Hudgins, Vice Chair; Newhouse, Ranking Minority Member; Sump, Assistant Ranking Minority Member; Chase, Hailey, Hunt, Morrell and Wood.

Staff: Brad Avy (786-7289).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

In 1988, the citizens of the state of Washington created by initiative the Model Toxics Control Act (MTCA). The primary purpose of the MTCA is to raise sufficient funds to clean up all hazardous waste sites and to prevent the creation of future hazards due to improper disposal of toxic wastes into the state's land and waters.

The MCTA includes a tax on the wholesale value of hazardous substances, which includes a list of over 8,000 different substances, such as petroleum products, pesticides and certain chemicals. Of the total receipts, 47.1 percent is allocated to the State Toxics Control Account (STCA) for cleanup of hazardous waste sites and related planning and regulation activities. The remaining 52.9 percent of the revenues go to the Local Toxics Control Account (LTCA) for use as grants or loans to local governments for hazardous and solid waste programs and for cleanup of hazardous waste sites.

Summary of Bill:

State Toxics Control Account

The bill transfers the amount of tax receipts that are deposited into the State Toxics Control Account exceeding \$30 million after each fiscal year to the newly created Strategic Partnership Cleanup Account.

The \$30 million threshold must be adjusted each year by the percentage change in the implicit price deflator for personal expenditures for the United States as published by the Bureau of Economic Analysis of the federal Department of Commerce.

Strategic Partnership Cleanup Account

Revenues from the transfer of excess funds from the State Toxics Control Account must be deposited into the Strategic Partnership Cleanup Account (SPCA) as well as any other money appropriated or transferred to the SPCA by the Legislature.

Moneys in the Strategic Partnership Cleanup Account may be spent only after appropriation. Expenditures from the SPCA may be used only for:

- remedial action efforts that constitute a priority of the state;
- area-wide clean-up efforts where a state investment is necessary to protect human health and the environment; and
- efforts to control new sources of contamination, where the efforts are necessary to protect the health of an existing clean-up site.

The Department of Ecology (DOE) may use the SPCA to accelerate cleanups that benefit the sediments and shorelines of Puget Sound.

Local Toxics Account

The bill transfers the amount of tax receipts that are deposited into the Local Toxics Control Account exceeding \$30 million after each fiscal year to the newly created Community Cleanup Assistance Account.

The \$30 million threshold must be adjusted each year by the percentage change in the implicit price deflator for personal expenditures for the United States as published by the Bureau of Economic Analysis of the federal Department of Commerce.

Community Cleanup Assistance Account

Revenues from the transfer of excess funds from the Local Toxics Control Account must be deposited into the Community Cleanup Assistance Account (CCAA) as well as any other money appropriated or transferred to the CCAA by the Legislature.

Moneys in the CCAA may be spent only after appropriation. Expenditures from the CCAA may be used only for grants or loans to local governments for the cleanup of hazardous waste sites.

The intent of the CCAA is to enable the DOE to create longer-term hazardous waste cleanup partnerships with communities and liable parties. Grants from the CCAA are limited to cleanup sites that:

- require a multi-year effort, beyond the state's traditional biennial budget planning timeline;
- consist of large-scale hazardous substance releases that impact the state's land and waters in a significant manner; and
- have a demonstrated high-level ecological and community cleanup benefit.

The DOE may use the CCAA to accelerate cleanups that benefit the sediments and shorelines of Puget Sound.

In partnering with local communities and liable parties for cleanups funded by the CCAA, the DOE may use the following additional strategies in order to ensure a healthful environment for future generations:

- grant matching requirements that create incentives for local governments to expedite cleanups;
- the use of outside contracted staff in order to review cleanup documentation and conduct necessary studies;
- the commitment of funds, subject to availability, for terms of up to 10 years;
- the purchase of remedial action cost-cap insurance, when necessary to expedite multi-party cleanup efforts; and
- the commitment of funds for operation and maintenance of long-term remedial action obligations, such as the maintenance of treatment or containment systems and required monitoring.

Appropriation: None.

Fiscal Note: Preliminary available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) There is a need to protect toxics site cleanup account funds for core toxics cleanup activities and to moderate effects of the high variability of account balances that result from fluctuating gas prices. The tendency over the years has been to fund a range of natural resource programs not core to toxics site cleanup. There is no intent to diminish the use of funds for solid and hazardous waste prevention. Bond ratings may improve if there is a more stable and dependable funding source for long-term, major projects.

(With concerns) There may not be a problem that requires fixing. Toxics cleanup account money may be tied up and result in fewer cleanups. The volatility of the account may not be addressed. It is important to maintain flexibility to respond to future legislative priorities. The account should be protected, but if funds are not available for storm water or other uses the Legislature will need to find another source. Not sure where this takes us in the future. There are other uses of the fund like hazardous waste and solid waste prevention. Capping the fund may limit opportunities for these activities in the future which may mean more sites to clean up. You may want to consider increasing the tax, rather than how to divide up the accounts.

Persons Testifying: (In support) Eric Johnson, Washington Public Ports Association; Mike Stoner, Port of Bellingham; Steve Zemke, Taxpayers for Washington's Future, and Greg Hanon, Western States Petroleum Association.

(With concerns) Pat Mc Lain, Department of Ecology; Bruce Wishart, People For Puget Sound; Suellen Mele, Washington Citizens for Resources Conservation. and Dave Williams, Association of Washington Cities.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON CAPITAL BUDGET

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 22 members: Representatives Fromhold, Chair; Ormsby, Vice Chair; Schual-Berke, Vice Chair; McDonald, Ranking Minority Member; Newhouse, Assistant Ranking Minority Member; Blake, Chase, Dunshee, Eickmeyer, Flannigan, Goodman, Hankins, Hasegawa, Kelley, McCune, Orcutt, Pearson, Pedersen, Sells, Skinner, Strow and Upthegrove.

Staff: Alicia Dunkin (786-7178).

Summary of Recommendation of Committee On Capital Budget Compared to Recommendation of Committee On Select Committee on Environmental Health:

Replaces all provisions of the bill with an intent section to the MTCA, and amends the STCA and CTCA to require the DOE to work with local governments that are eligible for funding to develop a 10-year financing report that identifies the biennial toxic site remedial needs, project the cleanup cost, revenue, and any recommended working capital reserve. The DOE must include a ranked list of remedial action projects from both accounts in the financing report. The accounts are amended to require the DOE to partner with local communities and liable parties for remedial actions to expedite cleanups throughout the state, through the addition of certain criteria.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) The bill requires the Department of Ecology to develop a 10-year financing report, just like what is done in the Transportation budget, that identifies the toxic site remedial needs, project the cleanup cost, and to project a working capital reserve. This is a great opportunity to add accountability for the funds as they are volatile and used by Ecology to fund the clean-up of hazardous waste sites. Major oil companies pay 90 percent of the Model Toxics Control Act (MTCA) revenue. The intent of those funds is to dedicate them to clean-up and we are concerned about attempts to use the funds in the accounts for different purposes. The MTCA is pressured for purposes for which it was intended and we think this bill has a long-term planning component so we know what is coming on the horizon and having a working capital reserve estimate will ameliorate the volatility of the accounts.

Persons Testifying: (In support) Representative Linville, prime sponsor; Eric Johnson, Washington Public Ports Association; Larry Paulson, Port of Vancouver; Greg Hanon, Washington State Petroleum Association; and Ted Sturdevant, Department of Ecology.

(Opposed) None.

Persons Signed In To Testify But Not Testifying: None.